



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB2921

by Rep. Laura Fine

SYNOPSIS AS INTRODUCED:

New Act

Creates the Safe Flame Retardants Act. Provides that, beginning July 1, 2014, no manufacturer, wholesaler, or retailer may knowingly manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State, a children's product or residential upholstered furniture, containing a component part that has a combined TRIS concentration of greater than 50 parts per million. Provides that, beginning July 1, 2015, no manufacturer, wholesaler, or retailer may knowingly manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State, a children's product or residential upholstered furniture, containing any flame retardant that is a chemical of high concern. Directs the Attorney General to administer the Act. Authorizes the Attorney General to seek injunctive relief and civil penalties for violations of the Act.

LRB098 08870 JDS 39001 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Safe
5 Flame Retardants Act.

6 Section 5. Definitions. As used in this Act:

7 "Chemical of high concern" means a chemical determined by
8 the Attorney General, after consulting with the Department, to
9 do one or more of the following:

10 (1) harm the normal development of a fetus or child or
11 cause other developmental toxicity;

12 (2) cause cancer, genetic damage, or reproductive
13 harm;

14 (3) disrupt the endocrine system;

15 (4) damage the nervous system, immune system, or organs
16 or cause other systemic toxicity; or

17 (5) be persistent, bioaccumulative, or toxic.

18 "Children's products" means a consumer product intended
19 for, made for, or marketed for use by children 12 years of age
20 or under.

21 "Consumer product" has the meaning established under
22 subdivision (a) (5) of Section 3 of the federal Consumer Product
23 Safety Act.

1 "Department" means Department of Public Health.

2 "End user" a person who purchases a children's product or
3 residential upholstered furniture for any purpose other than
4 resale.

5 "Manufacturer" means a person that produces a children's
6 product or residential upholstered furniture.

7 "Person" means any person, firm, association, partnership,
8 corporation, limited liability company, governmental entity,
9 organization, or joint venture or an employee or agent of any
10 person or entity included in this definition.

11 "Residential upholstered furniture" means residential
12 seating products that are intended for indoor use in a home or
13 other residential dwelling and that consist, in whole or in
14 part, of resilient cushioning materials enclosed within a
15 covering consisting of fabric or related materials.

16 "Retailer" means a person, other than a manufacturer or
17 wholesaler, who offers a children's product or residential
18 upholstered furniture for sale at retail through any means,
19 including, but not limited to, remote offerings, such as sales
20 outlets, catalogs, or the internet.

21 "TRIS" means any one or more of the following chemicals:
22 (i) TDCPP (tris(1,3-dichloro-2-propyl)phosphate), which, as of
23 the effective date of this Section, has the Chemical Abstracts
24 Service Registry Number 13674-87-8; (ii) TCEP
25 (tris(2-chloroethyl) phosphate), which, as of the effective
26 date of this Section, has the Chemical Abstracts Service

1 Registry Number 115-96-8; or (iii) TCPP
2 (tris(2-chloro-1-methylethyl)phosphate, which, as of the
3 effective date of this Section, has the Chemical Abstracts
4 Service Registry Number 13674-84-5.

5 "Wholesaler" means a person, other than a manufacturer or
6 retailer, who sells or resells or otherwise places into the
7 stream of commerce a children's product or residential
8 upholstered furniture.

9 Section 10. Prohibitions.

10 (a) Beginning July 1, 2014, no manufacturer, wholesaler, or
11 retailer may knowingly manufacture, sell, offer for sale,
12 distribute for sale, or distribute for use in this State, a
13 children's product or residential upholstered furniture,
14 containing a component part that has a combined TRIS
15 concentration of greater than 50 parts per million.

16 (b) Beginning July 1, 2015, no manufacturer, wholesaler, or
17 retailer may knowingly manufacturer, sell, offer for sale,
18 distribute for sale, or distribute for use in this State, a
19 children's product or residential upholstered furniture,
20 containing any flame retardant that is a chemical of high
21 concern.

22 (c) The prohibitions in this Section do not apply to the
23 resale of a children's product or residential upholstered
24 furniture by an end user or non-profit organization.

1 Section 15. Notifications. By April 1, 2014, each
2 manufacturer of products subject to Section 10 of this Act must
3 notify wholesalers and retailers in the State about the
4 provisions of this Act.

5 Section 20. Penalties.

6 (a) The Attorney General is responsible for administering
7 and ensuring compliance with this Act, including the
8 development and adoption of any rules, if necessary, for the
9 implementation and enforcement of this Act.

10 (b) The Attorney General shall develop and implement a
11 process for receiving and handling complaints from individuals
12 regarding possible violations of this Act.

13 (c) The Attorney General may conduct any investigation
14 deemed necessary regarding possible violations of this Act,
15 including, without limitation, the issuance of subpoenas to:

16 (1) require the filing of a statement or report or
17 answer interrogatories in writing as to all information
18 relevant to the alleged violations;

19 (2) examine under oath any person who possesses
20 knowledge or information directly related to the alleged
21 violations; and

22 (3) examine any record, book, document, account, or
23 paper necessary to investigate the alleged violation.

24 (d) Service by the Attorney General of any notice requiring
25 a person to file a statement or report, or of a subpoena upon

1 any person, shall be made:

2 (1) personally by delivery of a duly executed copy
3 thereof to the person to be served or, if a person is not a
4 natural person, in the manner provided in the Code of Civil
5 Procedure when a complaint is filed; or

6 (2) by mailing by certified mail a duly executed copy
7 thereof to the person to be served at his or her last known
8 abode or principal place of business within this State.

9 (e) In lieu of a civil action, the individual or entity
10 alleged to have engaged in a pattern or practice deemed
11 violative of this Act may enter into an Assurance of Voluntary
12 Compliance Agreement with respect to the alleged pattern or
13 practice violation.

14 (f) If the Attorney General determines that there is a
15 reason to believe that a violation of the Act has occurred, the
16 Attorney General may bring an action in the name of the People
17 of the State to obtain temporary, preliminary, or permanent
18 injunctive relief for any act, policy, or practice that
19 violates this Act.

20 (g) If any person fails or refuses to file any statement or
21 report, or obey any subpoena, issued pursuant to subsection (c)
22 of this Section, the Attorney General may proceed to initiate a
23 civil action pursuant to subsection (f) of this Section, or
24 file a complaint in the circuit court for the granting of
25 injunctive relief, including restraining the conduct that is
26 alleged to violate this Act until the person files the

1 statement or report, or obeys the subpoena.

2 (h) In any civil action brought pursuant to subsection (f)
3 of this Section, the Attorney General may obtain as a remedy,
4 equitable relief (including any permanent or preliminary
5 injunction, temporary restraining order, or other order,
6 including an order enjoining the defendant from engaging in a
7 violation or ordering any action as may be appropriate). In
8 addition, the Attorney General may request and the Court may
9 impose a civil penalty in an amount not to exceed \$50,000 for
10 each violation. For purposes of this subsection, each item and
11 each standard constitutes a separate violation.

12 A civil penalty imposed or a settlement or other payment
13 made pursuant to this Act shall be made payable to the Attorney
14 General's State Projects and Court Ordered Distribution Fund.
15 Moneys in the Fund shall be used, subject to appropriation, for
16 the performance of any function pertaining to the exercise of
17 the duties of the Attorney General including but not limited to
18 enforcement of any law of this State, product testing, and
19 conducting public education programs.

20 Any funds collected under this Section in an action in
21 which the State's Attorney has prevailed shall be retained by
22 the county in which he or she serves.

23 (i) The penalties and injunctions provided in this Act are
24 in addition to any penalties, injunctions, or other relief
25 provided under any other law. Nothing in this Act shall bar a
26 cause of action by the State for any other penalty, injunction,

1 or relief provided by any other law.